

**MEMO TO:** City Council

**FROM:** Rosemarie Ives, Mayor

**DATE:** July 19, 2005

**SUBJECT: APPROVAL OF TOURISM WEB SITE CONTRACT**

**I. RECOMMENDED ACTION**

Authorize the Mayor to sign the attached contract with Brandhammer (Attachment A) to develop a website for the Redmond Tourism program.

**II. DEPARTMENT CONTACT PERSONS**

Tom Paine, Chair, Lodging Tax Committee, 425-867-9813  
Jacky Goren, Tourism Fund Administrator, 425-556-2441

**III. DESCRIPTION/BACKGROUND**

On May 17, the City Council approved the contract with Brandhammer to carry out the Tourism Visitor Program. In addition to receiving the \$40,000 contract to develop the program, the scope of work included a set-aside budget of \$60,500 for the tangible aspects of the program, such as development of a website, advertising, marketing, etc. Brandhammer presented its branding theme to the City Council on July 5, and is now ready to move into the next phase of the tourism program by developing the tourism website. This contract is for \$30,000 to develop the website. The Lodging Tax Advisory Committee (LTAC), the group that includes the hoteliers who fund this program, has approved this budget.

**IV. IMPACT**

**A. Service Delivery:** Brandhammer's contract is through May 2006, but the agency expects to have the website developed before the end of 2005.

**B. Fiscal:** The source of funding for this contract is from the 1% Hotel-Motel Tax.

**V. ALTERNATIVES TO STAFF RECOMMENDATION**

Council could choose not to approve the contract, or to request changes. In this case, Council would need to give the LTAC 45 days' notice to review and comment on Council's intended action.

**VI. TIME CONSTRAINTS**

The Lodging Tax Advisory Committee is eager to move forward as quickly as possible with the tourism website.

**VII. LIST OF ATTACHMENTS**

**Attachment A:** Contract between the City of Redmond and Brandhammer for the Web Site  
with Exhibits

/s/  
Tom Paine, Councilmember

7/10/05  
Date

Approved for Council Agenda: /s/  
Rosemarie Ives, Mayor

7/11/05  
Date

o:\jgoren\Tourism\Council memo July 19 Website Contract

# Consulting Services Agreement

## Non-Public Work

<b>PROJECT TITLE &amp; IDENTIFICATION NUMBER (if # is known)</b>  Redmond Tourism Web Site	<b>WORK DESCRIPTION</b> (reference & list all attached exhibits)  Exhibit A = Scope of Work Exhibit B = Work Schedule Exhibit C = Payment Schedule
<b>CONTRACTOR</b>  Brandhammer	<b>CITY PROJECT ADMINISTRATOR</b> (Name, address, phone #) Jacky Goren City of Redmond CHPL P.O. Box 97010 Redmond, WA 98073-9710 425 556 2441 jgoren@redmond.gov
<b>CONTRACTOR CONTACT</b> (Name, address, phone #)  Craig Probst Brandhammer 121 Lake Street South Kirkland, WA 98033 425 739 9771	<b>BUDGET OR FUNDING SOURCE</b>  Hotel-Motel Tax: 1092.541000.573100
<b>FEDERAL ID #</b>  20-0549142	<b>MAXIMUM AMOUNT PAYABLE, IF ANY</b>  \$ 30,000.00
<b>SUPPLIER/CONTRACTOR'S REDMOND BUSINESS LICENSE ID #</b>	<b>COMPLETION DATE</b>  May 30, 2006
<b>APPLICANT NAME</b>	<b>APPLICANT CONTACT</b> (Name, address & phone #)

ATTACHMENT A

THIS AGREEMENT is entered into on \_\_\_\_\_, 2005 between the City of Redmond, Washington, hereinafter called "the CITY", and the above person, firm or organization, hereinafter called "the CONSULTANT".

WHEREAS, the CITY desires to accomplish the above-referenced project; and

WHEREAS, the CITY does not have sufficient staff or expertise to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary services for the project; and

WHEREAS, the CONSULTANT has represented to the CITY that the CONSULTANT is in compliance with the professional registration statutes of the State of Washington, if applicable, and has signified a willingness to furnish consulting services to the CITY, now, therefore,

IN CONSIDERATION OF the terms and conditions set forth below, or attached and incorporated and made a part hereof, the parties agree as follows:

1. Retention of Consultant - Scope of Work. The CITY hereby retains the CONSULTANT to provide professional services as defined in this agreement and as necessary to accomplish the scope of work attached hereto as Exhibit A and incorporated herein by this reference as if set forth in full. The CONSULTANT shall furnish all services, labor and related equipment necessary to conduct and complete the work, except as specifically noted otherwise in this agreement.

2. Completion of Work. The CONSULTANT shall not begin any work under the terms of this agreement until authorized in writing by the CITY. The CONSULTANT shall complete all work required by this agreement according to the schedule attached as Exhibit B and incorporated herein by this reference as if set forth in full. A failure to complete the work according to the attached schedule, except where such failure is due to circumstances beyond the control of the CONSULTANT, shall be deemed a breach of this agreement. The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the CITY, in the event of a delay attributable to the CITY, or because of unavoidable delays caused by circumstances beyond the control of the CONSULTANT. All such extensions shall be in writing and shall be executed by both parties.

3. Payment. The CONSULTANT shall be paid by the CITY for satisfactorily completed work and services satisfactorily rendered under this agreement as provided in Exhibit C, attached hereto and incorporated herein by this reference as if set forth in full. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work specified in the Scope of Work attached. The CONSULTANT shall be entitled to invoice

the CITY no more frequently than once per month during the course of the completion of work and services by the CONSULTANT. Invoices shall detail the work performed or services rendered, the time involved (if compensation is based on an hourly rate) and the amount to be paid. The CITY shall pay all such invoices within 45 days of submittal, unless the CITY gives notice that the invoice is in dispute. In no event shall the total of all invoices paid exceed the maximum amount payable set forth above, if any, and the CONSULTANT agrees to perform all services contemplated by this agreement for no more than said maximum amount.

4. Changes in Work. The CONSULTANT shall make such changes and revisions in the complete work provided by this agreement as may be necessary to correct errors made by the CONSULTANT and appearing therein when required to do so by the CITY. The CONSULTANT shall make such corrective changes and revisions without additional compensation from the CITY. Should the CITY find it desirable for its own purposes to have previously satisfactorily completed work or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the CITY. This work shall be considered as Extra Work and will be paid for as provided in Section 5.

5. Extra Work.

A. The CITY may, at any time, by written order, make changes within the general scope of the agreement in the services to be performed. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the work or services under this agreement, whether or not changed by the order, or otherwise affects any other terms or conditions of the agreement, the CITY shall make an equitable adjustment in the (1) maximum amount payable; (2) delivery or completion schedule or both; and (3) other affected terms, and shall modify the agreement accordingly.

B. The CONSULTANT must submit any "proposal for adjustment" under this clause within 30 days from the date of receipt of the written order to make changes. However, if the CITY decides that the facts justify it, the CITY may receive and act upon a proposal submitted before final payment of the agreement.

C. Failure to agree to any adjustment shall be a dispute under the Disputes clause of this agreement, as provided in Section 13. Notwithstanding any such dispute, the CONSULTANT shall proceed with the agreement as changed.

D. Notwithstanding any other provision in this section, the maximum amount payable for this agreement shall not be increased or considered to be increased except by specific written amendment of this agreement.

6. Ownership of Work Product. Any and all documents, drawings, reports, and other work product produced by the CONSULTANT under this agreement shall become the property of the CITY upon payment of the CONSULTANT'S fees and charges therefore. The CITY shall have the complete right to use and re-use such work product in any manner deemed appropriate by the CITY, provided, that use on any project other than that for which the work product is prepared shall be at the CITY'S risk unless such use is agreed to by the CONSULTANT.

7. Independent Contractor. The CONSULTANT is an independent contractor for the performance of services under this agreement. The CITY shall not be liable for, nor obligated to pay to the CONSULTANT, or any employee of the CONSULTANT, sick leave, vacation pay, overtime or any other benefit applicable to employees of the CITY, nor to pay or deduct any social security, income tax, or other tax from the payments made to the CONSULTANT which may arise as an incident of the CONSULTANT performing services for the CITY. The CITY shall not be obligated to pay industrial insurance for the services rendered by the CONSULTANT.

8. Indemnity. The CONSULTANT agrees to hold harmless, indemnify and defend the CITY, its officers, agents, and employees, from and against any and all claims, losses, or liability, for injuries, sickness or death of persons, including employees of the CONSULTANT, or damage to property, arising out of any willful misconduct or negligent act, error, or omission of the CONSULTANT, its officers, agents, subconsultants or employees, in connection with the services required by this agreement, provided, however, that:

A. The CONSULTANT's obligations to indemnify, defend and hold harmless shall not extend to injuries, sickness, death or damage caused by or resulting from the sole willful misconduct or sole negligence of the CITY, its officers, agents or employees; and

B. The CONSULTANT's obligations to indemnify, defend and hold harmless for injuries, sickness, death or damage caused by or resulting from the concurrent negligence or willful misconduct of the CONSULTANT and the CITY, or of the CONSULTANT and a third party other than an officer, agent, sub consultant or employee of the CONSULTANT, shall apply only to the extent of the negligence or willful misconduct of the CONSULTANT.

9. Insurance. The CONSULTANT shall provide the following minimum insurance coverages:

A. Worker's compensation and employer's liability insurance as required by the State of Washington;

B. General public liability and property damage insurance in an amount not less than a combined single limit of two million dollars (\$2,000,000) for bodily injury, including death, and property damage per occurrence.

C. Professional liability insurance, if commercially available in CONSULTANT's field of expertise, in the amount of one million dollars (\$1,000,000) or more against claims arising out of work provided for in this agreement.

The amounts listed above are the minimum deemed necessary by the CITY to protect the CITY'S interests in this matter. The CITY has made no recommendation to the CONSULTANT as to the insurance necessary to protect the CONSULTANT'S interests and any decision by the CONSULTANT to carry or not carry insurance amounts in excess of the above is solely that of the CONSULTANT.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. Excepting the professional liability insurance, the CITY will be named on all insurance as an additional insured. The CONSULTANT shall submit a certificate of insurance to the CITY evidencing the coverages specified above, together with an additional insured endorsement naming the CITY, within fifteen (15) days of the execution of this agreement. The additional insured endorsement shall provide that to the extent of the CONSULTANT's negligence, the CONSULTANT's insurance shall be primary and non-contributing as to the City, and any other insurance maintained by the CITY shall be excess and not contributing insurance with respect to the CONSULTANT's insurance. The certificates of insurance shall cover the work specified in or performed under this agreement. No cancellation, reduction or modification of the foregoing policies shall be effective without thirty (30) days prior written notice to the CITY.

10. Records. The CONSULTANT shall keep all records related to this agreement for a period of three years following completion of the work for which the CONSULTANT is retained. The CONSULTANT shall permit any authorized representative of the CITY, and any person authorized by the CITY for audit purposes, to inspect such records at all reasonable times during regular business hours of the CONSULTANT. Upon request, the CONSULTANT will provide the CITY with reproducible copies of any such records. The copies will be provided without cost if required to substantiate any billing of the CONSULTANT, but the CONSULTANT may charge the CITY for copies requested for any other purpose.

11. Notices. All notices required to be given by either party to the other under this Agreement shall be in writing and shall be given in person or by mail to the addresses set forth in the box for the same appearing at the outset of this Agreement. Notice by mail shall be deemed given as of the date the same is deposited in the United States mail, postage prepaid, addressed as provided in this paragraph.

12. Project Administrator. The Project Administrator shall be responsible for coordinating the work of the CONSULTANT, for providing any necessary information for and direction of the CONSULTANT's work in order to ensure that it meets the requirements of this Agreement, and for reviewing, monitoring and approving the quality and quantity of such work. The CONSULTANT shall report to and take any necessary direction from the Project Administrator.

13. Disputes. Any dispute concerning questions of fact in connection with the work not disposed of by agreement between the CONSULTANT and the CITY shall be referred for resolution to a mutually acceptable mediator. The parties shall each be responsible for one-half of the mediator's fees and costs.

14. Termination. The CITY reserves the right to terminate this agreement at any time upon ten (10) days written notice to the CONSULTANT. Any such notice shall be given to the address specified above. In the event that this agreement is terminated by the City other than for fault on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT for all services performed. No payment shall be made for any work completed after ten (10) days following receipt by the CONSULTANT of the notice to terminate. In the event that services of the CONSULTANT are terminated by the CITY for fault on part of the CONSULTANT, the amount to be paid shall be determined by the CITY with consideration given to the actual cost incurred by the CONSULTANT in performing the work to the date of termination, the amount of work originally required which would satisfactorily complete it to date of termination, whether that work is in a form or type which is usable to the CITY at the time of termination, the cost of the CITY of employing another firm to complete the work required, and the time which may be required to do so.

15. Non-Discrimination. The CONSULTANT agrees not to discriminate against any customer, employee or applicant for employment, subcontractor, supplier or materialman, because of race, color, creed, religion, national origin, marital status, sex, age or handicap, except for a bona fide occupational qualification. The CONSULTANT understands that if it violates this provision, this agreement may be terminated by the CITY and that the CONSULTANT may be barred from performing any services for the CITY now or in the future.

16. Compliance and Governing Law. The CONSULTANT shall at all times comply with all applicable federal, state, and local laws, rules, ordinances, and regulations. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

17. Subcontracting or Assignment. The CONSULTANT may not assign or subcontract any portion of the services to be provided under this agreement without the express written consent of the CITY. Any sub-consultants approved by the CITY at the



outset of this agreement are named on Exhibit D attached hereto and incorporated herein by this reference as if set forth in full.

18. Non-Waiver. Payment for any part of the work or services by the CITY shall not constitute a waiver by the CITY of any remedies of any type it may have against the CONSULTANT for any breach of the agreement by the CONSULTANT, or for failure of the CONSULTANT to perform work required of it under the agreement by the CITY. Waiver of any right or entitlement under this agreement by the CITY shall not constitute waiver of any other right or entitlement.

19. Litigation. In the event that either party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this agreement, the parties agree that such actions shall be initiated in the Superior Court of the State of Washington, in and for King County. The parties agree that all questions shall be resolved by application of Washington law and that parties to such actions shall have the right of appeal from such decisions of the Superior Court in accordance with the law of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior Court of the State of Washington, in and for King County. The prevailing party in any such litigation shall be entitled to recover its costs, including reasonable attorney's fees, in addition to any other award.

20. Taxes. The CONSULTANT will be solely responsible for the payment of any and all applicable taxes related to the services provided under this agreement and if such taxes are required to be passed through to the CITY by law, the same shall be duly itemized on any billings submitted to the CITY by the CONSULTANT.

21. City Business License. The CONSULTANT has obtained, or agrees to obtain, a business license from the CITY prior to commencing to perform any services under this agreement. The CONSULTANT will maintain the business license in good standing throughout the term of this Agreement.

22. Entire Agreement. This agreement represents the entire integrated agreement between the CITY and the CONSULTANT, superseding all prior negotiations, representations or agreements, written or oral. This agreement may be modified, amended, or added to, only by written instrument properly signed by both parties hereto. These standard terms and conditions set forth above supersede any conflicting terms and conditions on any attached and incorporate exhibit. Where conflicting language exists, the CITY'S terms and conditions shall govern.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the  
day and year first above written.

CONSULTANT:

CITY OF REDMOND:

By: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
Rosemarie M. Ives, Mayor  
DATED: \_\_\_\_\_

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
City Clerk, City of Redmond

APPROVED AS TO FORM:

\_\_\_\_\_

## **Exhibits A, B, and C**

### ***Scope of Work, Schedule and Payment Schedule***

Brandhammer will be responsible for overseeing the development of the City of Redmond tourism website, as described below:

#### WEB SITE DEVELOPMENT

Brandhammer will oversee the design, code, test and uploading of a promotional / informational web site to promote the City of Redmond's tourism program. The site will be contained within 60 to 80 pages (which include hotel information, city events calendar, maps, photo tours, activities index, business index, driving directions, contact information, and more). The site will feature an expansive database-driven search engine for easy navigation. It will integrate up to five control panel utilities. Each will allow the client to manually update content on various pages of the site. These may include news, photo tours, calendar of events, links, etc. All graphics including navigation, menu, and maps using HTML, dHTML Java, PHP, and Flash will be designed and coded. There will also be three to six CGI forms and three to four downloadable PDF forms for online communication. The site will be designed using client-provided text and photos. Finally, the site will be tested across various browsers and computer platforms for maximum compatibility before uploading to live. Complete usage rights to the site's code will be transferred to The City of Redmond upon completion.

#### CONTENT ORGANIZATION

- Develop the web site flowchart.
- Use current Internet usage stats and trends in this phase for maximum effectiveness.

#### USER INTERFACE

- Establish the user interface. This navigation will play a crucial role in the design concepts.
- Take all the information gathered and design several initial screen shots. These will be strictly graphical representations of what the screen layout and navigation will look like. Brand consistency and ease of navigation are focuses of this design stage.

#### WEB SITE SHELL

- After final approval of the initial design, the shell of the site will be coded. This will include the home page and the main navigation pages. This will illustrate a better understanding of the look and feel of the site.
- Flash elements may be incorporated after review of the navigation function.

#### CODE BALANCE OF WEB SITE

- Upon approval of shell of the site, Brandhammer will oversee coding the balance of the site. At this time content to the site will be added, such as:
  - Photos
  - Text

#### DATABASE UTILITIES

- At the same time the balance of the site is being coded the development of the database utilities will take place. These database utilities will consist of the control panels that allow for non-technical updates of selected pages and areas of the site.
- Selected individuals will have secure access the back end of the site. Using the control panels will be just as simple as sending an email with an attachment. There will be no limit to the frequency of updates. Changes to the site will be made in real time.

#### POPULATION OF CONTENT & INTEGRATION OF DATABASE UTILITIES

- When the balance of the site is coded the content will be populated. This will include all text, photos and technical information. At this point the database utilities will also be integrated. Brandhammer will populate all the initial content in the utilities.

#### TESTING

- The web site will go through a testing phase to insure compatibility with multiple web browsers and computer platforms.

#### MAINTENANCE

- Brandhammer will provide web site maintenance on a monthly schedule for a period of one year. Each monthly update will include the addition/adjustment of text and photos in the existing content areas of the site.

#### PAYMENT SCHEDULE AND BUDGET:

##### **Web Site Development**

Design graphics & layout	\$3000
HTML/Flash coding	\$9000
Code CGI and PDF forms	\$3000
Develop and integrate utilities	\$5000
Test & upload to final	\$1000
<b>Total Site Development Investment</b>	<b>\$21,000</b>

##### **Web Site Hosting**

Annual Hosting	\$1800
Unlimited E-Mail Accounts	(included)
<b>Total Web Site Hosting Investment</b>	<b>\$1800</b>

**Search Engine Optimization (SEO)**

Annual Directory/Engine Registration

\$1200

Site Optimization

(included)

**Total SEO Investment****\$1200****Web Site Maintenance**

Annual Maintenance

\$6000

Testing &amp; Integration

(included)

**Total Maintenance Investment****\$6000****TOTAL**

---

**\$30,000**

**Brandhammer may invoice the city as each phase of the website is developed. The invoice will be accompanied by the status of work accomplished for that billing period. The total cost will not exceed \$30,000.**

**EXHIBIT D**  
**INSURANCE ADDENDUM**

THIS ADDENDUM modifies the provisions of the (check one):      Memorandum of Understanding      General Services Agreement,   X   Consultant Agreement,      Instructional Services Agreement,      Social/Community Services Agreement or      Three Party Consultant Agreement (hereinafter "the Agreement") entered into between the parties on   July 22, 2005  .

THE UNDERSIGNED PARTIES agree to modify paragraph 8 (if a General Services Agreement), 9 (if Consultant Agreement), 7 (if Instructional Services Agreement), 6 (if Social/Community Services Agreement or 10 (if a Three Party Consultant Agreement) of the Agreement as follows (check all applicable items):

    X     The general public liability and property damage insurance limit is increased/reduced to \$ 1,000,000.00 (insert amount).

\_\_\_\_\_ The professional liability insurance amount is increased/reduced to \$ \_\_\_\_\_ (insert amount). This item relates to Consultant and Three Party Consultant Agreements only.

\_\_\_\_\_ The professional liability insurance requirement is eliminated. This item relates to Consultant and Three Party Consultant Agreements only.

\_\_\_\_\_ The insurance provisions are otherwise modified as follows:

Except as expressly modified above, all insurance-related terms and conditions of the Agreement remain unchanged and in full force and effect. The City has made no recommendation to the contractor/consultant as to the insurance necessary to protect the contractor/consultant's interests and any decision by the contractor/consultant to carry or not carry insurance amounts or coverages in excess of the above is solely that of the contractor/ consultant.

**DATED** \_\_\_\_\_, \_\_\_\_\_.

CITY OF REDMOND

APPLICANT

MAYOR ROSEMARIE IVES

By: \_\_\_\_\_  
Title: \_\_\_\_\_

**ATTEST/AUTHENTICATED:**

CITY CLERK, BONNIE MATTSON

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY

**APPROVED:**

RISK MANAGER GLENN SUGIYAMA